IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 698 OF 2005

M/s. P.I. Rachkar & Co. ...Petitioner

Versus

Assistant provident Fund Commissioner Solapur ...Respondent

.....

Mr. S.G. Page with S.R. Page, counsel for Petitioner

Mr. Suresh Kumar, the counsel for Respondent.

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CORAM: B. H. MARLAPALLE, J.

DATED: 26TH APRIL, 2005

P. C.:-

1. Heard Mr. Page, the learned counsel for the petitioner firm.

2. Pursuant to the order passed on 12.4.2005 copies of the tax audit report for the assessment years 1998-99, 1999-2000 and 2000-2001, have been placed on record.

3. It is noted that in the impugned order, the learned Presiding Officer of the E.P.F. Appellate Tribunal at New Delhi has reduced the deposited amount from 75% to 25% by exercising his discretion under the proviso to section 7-O of the Employees

Provident Fund and Miscellaneous Provisions Act, 1952.

4. Having regards to the orders under challenge in the pending appeal and the amounts shown in the tax audit report towards the salary payments and labour charges etc. it appears that the learned Presiding Officer has exercised his discretion to bring down the deposited amount as a condition precedent to decide the appeal, to 25% and this discretion exercised is quite reasonable.

5. Hence, there is no case for interference in the impugned order and at the same time let it be noted that the pending appeal will have to be decided on its own merits and after giving opportunity to the petitioner to place on record all the necessary documents including the copies of certified balance sheets. Hence, the petition is rejected summarily. However, time to deposit the amount is extended upto 31.5.2005.

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